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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518-3398-01]

RTID 0648-XS017

**Reef Fish Fishery of the Gulf of Mexico; 2019 Commercial
Accountability Measure and Closure for Gulf of Mexico Gray
Triggerfish**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the gray triggerfish commercial sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) through this temporary rule. NMFS projects that the 2019 commercial landings for gray triggerfish will reach the commercial annual catch target (ACT) (commercial quota) by November 26, 2019. Therefore, NMFS is closing the commercial sector for Gulf gray triggerfish on November 26, 2019, and it will remain closed through the end of the fishing year on December 31, 2019. This closure is necessary to protect the Gulf gray triggerfish resource.

DATES: This temporary rule is effective at 12:01 a.m., local time, on November 26, 2019, until 12:01 a.m., local time, on January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *kelli.odonnell@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes gray triggerfish, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All gray triggerfish weights discussed in this temporary rule are in round weight.

The commercial ACL for Gulf gray triggerfish is 64,100 lb (29,075 kg) (50 CFR 622.41(b)(1)), and the commercial ACT (quota) is 60,900 lb (27,624 kg) (50 CFR 622.39(a)(1)(vi)). The regulations at 50 CFR 622.41(b)(1) require an overage of the commercial ACL be subtracted from the following year's ACL and ACT. Landings of gray triggerfish for the commercial sector in 2018 totaled 64,702 lb (29,348 kg), which is 602 lb (273 kg)

greater than the 2018 ACL of 64,100 lb (29,075 kg). Accordingly, for 2019, NMFS reduced both the commercial ACL and ACT for Gulf gray triggerfish by 602 lb (273 kg) (84 FR 43725, August 22, 2019). The revised commercial ACT (commercial quota) for gray triggerfish in 2019 is 60,298 lb (27,351 kg), and the revised commercial ACL for gray triggerfish is 63,498 lb (28,802 kg).

As specified by 50 CFR 622.41(b)(1), NMFS is required to close the commercial sector for gray triggerfish when the commercial quota is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS projects the 2019 adjusted commercial quota for Gulf gray triggerfish will be reached by November 26, 2019. Accordingly, this temporary rule closes the commercial sector for Gulf gray triggerfish effective at 12:01 a.m., local time, on November 26, 2019, and the sector will remain closed until the start of the next commercial fishing season on January 1, 2020.

During the commercial closure, the operator of a vessel with a valid commercial vessel permit for Gulf reef fish having gray triggerfish on board must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, on November 26, 2019. During the closure, the sale or purchase of

gray triggerfish taken from the Gulf EEZ is prohibited. The prohibition on the sale or purchase does not apply to gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, on November 26, 2019, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant

to the authority set forth in 5 U.S.C. 553(b) (B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rule implementing Amendment 37 to the FMP (78 FR 27084, May 9, 2013), which established the closure provision, was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 20, 2019.

Jennifer M. Wallace,

Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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